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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/810,794	03/15/2001	Paul W. Romig	42445.00079	6786

30256 7590 11/19/2002

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EXAMINER

GALLAGHER, JOHN J

ART UNIT	PAPER NUMBER
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1733

13

DATE MAILED: 11/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/810794

Applicant(s)

mk-13

Examiner

Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on 12 August 2002
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-7 and 11-18 is/are pending in the application.
- ☐ Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-7 and 11-18 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
  - ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 10
- ☒ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 5-7, 11-12 and 15-18 are rejected under 35 U.S.C. § 102(b) as being (clearly) anticipated by Williams.

3. Claims 3-4 and 13-14 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Williams.

4. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-7 and 11-18 are further rejected under 35 U.S.C. § 103(a) as being unpatentable over Williams in view of Berger et al.

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6. Applicants' arguments filed 12 August 2002 have been fully considered but they are not deemed to be persuasive. The foregoing art rejections are adhered to essentially for the reasons of record (see paragraphs 3-4 and 6 of the last Office action), with the following being additionally advanced with respect to applicants' comments, contentions and arguments as set forth in the amendment: (a) The polyolefin (e.g. polyethylene) container material employed by Williams is (1) the SAME material(s) envisioned for use by applicants; AND (2) (ADMITTEDLY) semi-permeable i.e. regarding all of the foregoing, N.B. page 1 lines 13-15 of applicants' specification and compare with (i.e. N.B.) column 1 lines 51-56 and 65-66 and column 3 lines 51-55 of this patentee; (b) the aluminum label (and BARRIER) material employed by this patentee is (1) again the SAME material as that envisioned for use by applicants; and (2) indeed METALLIC; (c) the aforementioned aluminum label and the exterior surface of the polyethylene container are (fusion) bonded together and integrally united (N.B. column 3 lines 62-65 and column 4 lines 63-64 of Williams), such that they must necessarily be contacted (i.e. placed one against (or on) the other) further (1) the aforementioned bonding is seen to be effected by this patentee in essentially the same manner as that envisioned and employed by applicants i.e. compare applicants' specification at page 5 lines 7-24 with column 2 lines 17-24 and

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column 4 lines 16-19 of this patentee; and (2) applicants are seen to clearly not preclude the use of heat and pressure in their claimed process i.e. applicants fairly provide for the application of both heat (N.B. again page 5 lines 7-16 and 22-24 of applicants' specification) and AT LEAST contact pressure (N.B. page 5 lines 21-22 of the specification); (d) the (e.g. polyethylene) adhesive material which may be employed by Williams is (1) indeed a polymeric, resinous and plastic material; and (2) yet again the SAME material as that envisioned for use by applicants (N.B. page 6 lines 10-13 and 16-18, wherein this material employed by applicants is clearly termed and characterized as a "BONDING (i.e. ADHESIVE) agent"); and (e) the Berger et al. reference was specifically applied (again) ONLY for the sake of exposition and completeness i.e. to document that the metallic (BARRIER) layer materials employed by both these patentees (and also by Williams) are indeed known and appreciated by this art to be impervious to liquids (e.g. inks etc.).

7. **THIS ACTION IS MADE FINAL.** Applicants are reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a). The practice of automatically extending the shortened statutory period an additional month upon the filing of a timely first response to a final rejection has been discontinued by the Office. See 1021 TMOG 35.

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A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. J. Gallagher whose telephone number is (703) 308-1971. The examiner can normally be reached on M-F from approximately 8:30 A.M. to 5 P.M. The examiner can also be reached on alternate N/A.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Ball, can be reached on (703) 308-2058. The fax phone number for this Group is (703) ~~305-3599~~ <sup>872-9311</sup>.

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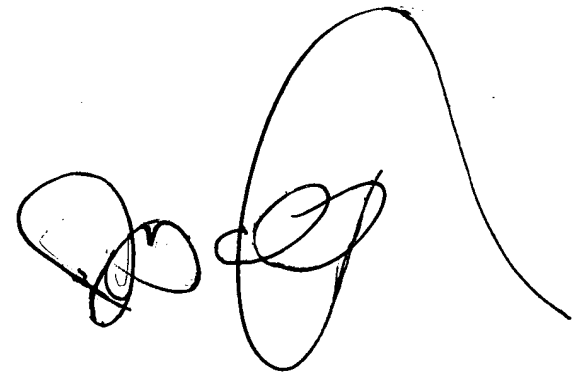
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661/0662.

  
JJGallagher:cdc

November 4, 2002



JOHN J. GALLAGHER  
PRIMARY EXAMINER  
ART UNIT 131/733